

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

No. C 10-3724 CW

U.S. ETHERNET INNOVATIONS, LLC,

Plaintiff,

v.

ACER, Inc., et al.,

Defendants.

ORDER DENYING
DEFENDANTS' MOTION
FOR LEAVE TO FILE A
MOTION FOR
RECONSIDERATION AND
DENYING PLAINTIFF'S
MOTION TO STRUCTURE
CASE FOR TRIAL
(Docket Nos. 1252 &
1254)

I. Defendants' Motion for Leave to File a Motion for
Reconsideration

Defendants Fujitsu America, Inc., Fujitsu Limited, Acer,
Inc., Acer America Corporation, and Gateway Inc. move for leave to
file a motion for reconsideration of the Court's December 7, 2012
order denying their request to sever and stay the claims against
them.¹ Civil Local Rule 7-9(a) provides, "No party may

¹ Defendants filed an administrative motion to file under
seal certain exhibits to the declaration of Daniel Hubin filed in
support of the motion for leave to file a motion for
reconsideration. The motion to file under seal was based on
Plaintiff's designation of the exhibits as "Highly Confidential--
Attorney's Eyes Only." Plaintiff has not filed a supporting
declaration as required by Civil Local Rule 79-5(e)(1).
Accordingly, the administrative motion to file under seal is
DENIED (Docket No. 1251). Defendants shall file the exhibits in
the public record no earlier than four days and no later than ten
days after the date of this order. See Civil L.R. 79-5(e)(2).

1 notice a motion for reconsideration without first obtaining leave
2 of Court to file the motion." A request for leave to file a
3 motion for reconsideration may only be granted if the moving party
4 shows: (1) that "at the time of the motion for leave, a material
5 difference in fact or law exists from that which was presented to
6 the Court before entry of the interlocutory order for which
7 reconsideration is sought"; (2) "the emergence of new material
8 facts or change of law occurring after the time of such order"; or
9 (3) "a manifest failure by the Court to consider material facts or
10 dispositive legal arguments which were presented to the Court
11 before such interlocutory order." Civil L.R. 7-9(b).

12 Having considered Defendants' motion for leave and
13 Plaintiff's motion to structure case for trial filed in response
14 to Defendants' motion for leave, the Court finds that Defendants
15 have failed to demonstrate a material difference in fact
16 sufficient to warrant leave to file a motion for reconsideration.
17 Defendants' motion is DENIED.

18 II. Motion to Structure Case for Trial

19 Plaintiff U.S. Ethernet Innovations, LLC (USEI) has filed a
20 motion to structure case for trial asserting its belief that it is
21 not necessary to have separate trials for the chipmaker
22 Intervenor and the computer maker Defendants. The Court finds
23 that this motion is premature in light of the pending cross-
24 motions for summary judgment. Accordingly, the Court DENIES
25 Plaintiff's motion without prejudice.

CONCLUSION

For the reasons set forth above, this Court DENIES Defendants' motion for leave to file a motion for reconsideration (Docket No. 1252) and DENIES without prejudice Plaintiff's motion to structure case for trial (Docket No. 1254).

IT IS SO ORDERED.

Dated: 9/12/2014


CLAUDIA WILKEN
United States District Judge